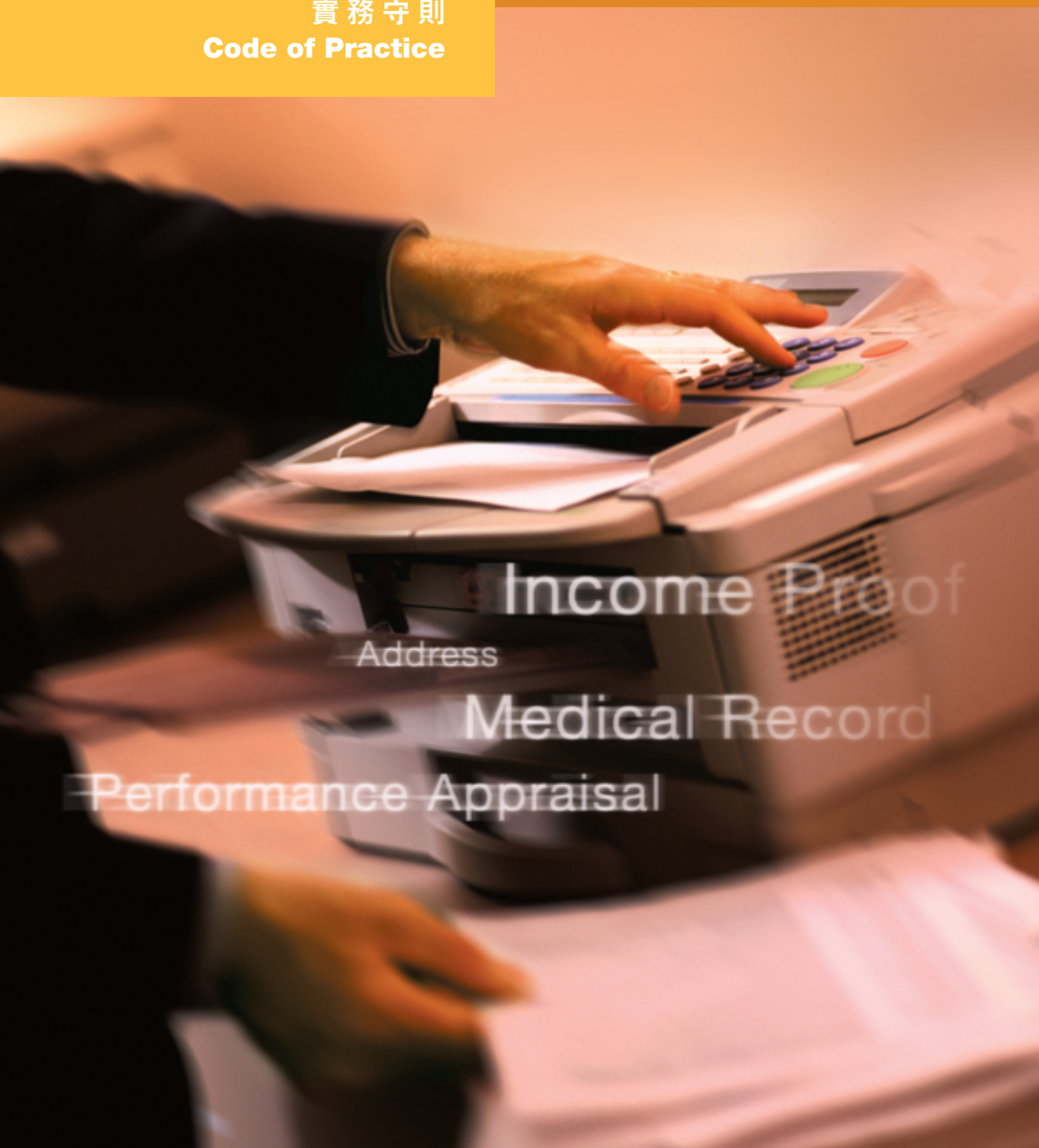




實務守則
Code of Practice



Income Proof

Address

Medical Record

Performance Appraisal

根據條例第12(1)條，私隱專員可核准及發出實務守則，就條例的任何規定(包括保障資料原則)提供實務性指引。有關守則可由某一行業或專業或私隱專員制訂。在核准實務守則前，私隱專員須諮詢守則所適用的資料使用者的代表團體，或他認為合適的其他有利害關係的人。

《個人信貸資料實務守則》的修訂

公署在二零零一至二零零二年的年報中指出本港經濟持續下滑對財經服務業有嚴重的影響，尤其是個人信貸市場。在過去一年內，無力償還信用咭欠款及個人貸款的人數據報顯著上升。

在設法找出情況日趨轉壞的箇中原因時，信貸提供者認為問題的核心在於它們無法評估借款人的信用可靠性。信貸提供者目前在處理信貸申請時可共用客戶的負面信貸資料。業界力言這些資料不足以令它們正確得知借款人的實際財務狀況。它們要求擴大共用個人信貸資料的範圍，包括透過信貸資料服務機構共用正面信貸資料。信貸提供者的意見是有效地共用資料有助作出較佳的信貸風險管理，可避免它們在資訊不足的情況下借出貸款。

如實施業界的建議，則等同放寬現有《個人信貸資料實務守則》(「信貸守則」)的規定。繼業界代表及政府官員在二零零二年一月舉行圓桌會議後，公署成立了工作小組，以便對共用正面信貸資料所引致的私隱問題作深入研究。在二零零二年八月二十八日，公署

Under section 12(1) of the PD(P)O, the Privacy Commissioner may, for the purpose of providing practical guidance in respect of any of the requirements of the PD(P)O, including those of the data protection principles, approve and issue codes of practice. The preparation of such a code may be done by a particular sector or profession or by the Privacy Commissioner. Before approving a code of practice the Privacy Commissioner is required to consult such representative bodies of data users to which the code will apply and such other interested persons as he thinks fit.

Revisions to the Code of Practice on Consumer Credit Data

The 2001-02 annual report drew attention to the fact that the protracted economic downturn in Hong Kong had had a serious impact upon the financial services sector and the market for consumer credit in particular. Over the course of the year the number of consumers reporting delinquent on credit card accounts and in default on personal loans has risen appreciably.

In seeking to explain the deteriorating situation credit providers have maintained that the core of the problem lay with their inability to assess the creditworthiness of borrowers. Currently credit providers can share negative credit information of their customers when processing credit applications. The industry argued that this data was insufficient to enable them to obtain an accurate picture of the true financial position of the borrower. They called for a greater sharing of consumer credit data to include positive data via the credit reference agency. The view taken was that the effective utilization of shared information could facilitate better credit risk management and overcome the problem of credit providers having to lend blind.

The industry's proposal, if implemented, amounts to a relaxation of the provisions of the current Code of Practice on Consumer Credit Data. Subsequent to the Roundtable Discussion held among industry representatives and government officials in January 2002, the PCO established a working group to conduct an in-depth study of the privacy-related issues arising from the sharing of positive credit data. On 28 August 2002, the PCO issued a consultation document to seek public views on a set of proposed provisions on consumer credit data protection. In essence those provisions were designed to make the market less opaque by permitting the sharing of limited positive credit data that would be subject to specific privacy measures and controls designed to safeguard the interests of consumers.



私隱專員鄧爾邦先生(右二)接受傳媒訪問，解釋建議草案的詳情。
Privacy Commissioner Mr. Raymond Tang (2nd from right) gave media interviews to explain details of the draft proposals.



發表了一份諮詢文件，徵求市民對建議中的各項個人信貸資料保障條文的意見。該等條文的設計主要是藉准許共用有限的正面信貸資料來增加市場的透明度，而該等正面信貸資料必須受指定的私隱保障及管制措施規管，以保障信貸客戶的權益。

諮詢活動在二零零二年十月二十五日結束。公署共收到282份來自社會各界人士的回應。諮詢結果反映出市民的共識是個人破產及個人欠債的趨勢上升備受廣大市民關注。如不對破產問題作出處理，可引致消費者對信貸市場甚至整體經濟失去信心。仔細考慮各種意見及建議後，公署在二零零三年一月二十三日發表諮詢報告，建議對信貸守則作出修訂，藉此推出一個規管共用個人信貸資料的新監管架構。

個人欠債及破產個案上升由多個因素造成，對社會及經濟有重大的影響。公署並不認為擴大共用信貸資料的範圍是解決有關問題的良好方藥，但相信加強信貸資料的透明度對信貸提供者及借款人雙方均有利，有助提供一個有效的信貸環境及建立負責任的借貸關係。在對信貸守則作出修訂時，公署設法在公眾利益與個人資料私隱權益之間求取平衡。任何朝著這個目標的解決方案都無可能滿足社會所有人士的要求。雖則如此，鑑於情況嚴峻，公署認為有需要對此一嚴重的經濟發展情況作出審慎的回應，而所實施的私隱保障措施亦會對各有關方面提供一個公平的解決方法，系統中的制衡措施包括私隱保障措施及獨立的循規審核，可明確保證各界人士的個人資料私隱權利並不會因而遭削弱。

信貸守則的修訂本已於二零零三年五月刊憲及於同年六月二日生效。

The consultation exercise ended on 25 October 2002. A total of 282 responses were received from various sections of the community. The consultation results reflected a broad public consensus that the rising trend in personal bankruptcy and consumer debt was a matter of major concern to the community. If not addressed, the bankruptcy problems may lead to a loss of consumer confidence in the market and the economy as a whole. Having carefully considered the various views and suggestions, the PCO released a consultation report on 23 January 2003 recommending revisions to the Code to give effect to a new regulatory framework on consumer credit data sharing.

There are many factors contributing to the increase in consumer debt and bankruptcy, which have had a significant social economic impact. The PCO do not regard the proposal for greater sharing of credit data as a cure for this problem but believe that credit information transparency benefits both credit providers and borrowers in facilitating an efficient credit environment and promoting a responsible lending and borrowing relationship. In making amendments to the Code the PCO has endeavoured to strike a balance between the public interest and the personal data privacy rights of the individual. Any solution that strives to attain this goal is unlikely to satisfy the demands of all sectors of the community. Nonetheless, given the gravity of the situation the PCO remains of the view that a considered response to a serious economic development was justified and that the privacy safeguards to be implemented would provide an equitable solution for the parties involved. The checks and balances in the system by way of privacy safeguards and independent compliance auditing were expressly designed to ensure that the personal data privacy rights of the community would not be diminished.

The revised Code has since been gazetted in May and took effect from 2 June 2003.



《監察活動及工作期間的個人資料私隱實務守則草擬本》

《監察活動及工作期間的個人資料私隱實務守則草擬本》的諮詢活動由二零零二年三月八日開始，至同年六月七日結束，旨在就僱主對僱員所實施的電子郵件監察、電腦用途監察、電話監察及閉路電視／錄影監察等僱員監察活動，徵詢市民大眾對一套草擬條文的意見。

諮詢文件徵求市民對下述四項政策問題的意見：

- **守則的涵蓋範圍：**應否包括無記錄僱員個人資料的監察手法；
- **例外情況：**是否有其他情況可獲豁免，毋須受建議中的草擬條文所管限；
- **監察記錄的保留：**是否有其他情有可原的情況，有理由將監察記錄保留超過六個月；
- **其他方式：**建議中的草擬條文應否以私隱條例下的「實務守則」或「最佳行事方式指引」的形式頒布。

公署向有興趣的相關人士派發了超過4,000份諮詢文件，包括立法會議員、區議會議員，以及專業及代表團體。在諮詢期間，公署的代表接受九次傳媒訪問／電話訪問，以及出席了12次講座／討論，闡述守則草擬本的主要問題。此外，私隱專員亦出席了二零零二年四月十二日的立法會民政事務委員會會議，參與守則草擬本的討論。

Draft Code of Practice on Monitoring and Personal Data Privacy at Work

The consultation exercise on the draft Code of Practice on Monitoring and Personal Data Privacy at Work commenced on 8 March 2002 and ended on 7 June 2002. The consultation sought public views on a set of draft provisions on employee monitoring practices engaged by employers concerning E-mail monitoring, computer usage monitoring, telephone monitoring and CCTV/video monitoring.

The consultation document invited opinions on four policy issues:

- **Scope of the Code:** whether it should cover monitoring practices where no records of employee personal data are made;
- **Exceptional circumstances:** whether there are any other circumstances that justify exemption from the proposed draft provisions;
- **Retention of monitoring records:** whether there are any other mitigating circumstances that justify the retention of monitoring records for a period in excess of 6 months;
- **Alternative approaches:** whether the proposed draft provisions should be promulgated as a “code of practice” or “best practice guidelines” under the PD(P)O.

The PCO distributed over 4,000 copies of the consultation document to interested parties including Members of the Legislative Council, District Councils, professional and representative bodies. During the consultation period, representatives of the PCO attended 9 media interviews/radio phone-in programmes and 12 seminars/discussion forums to explain the principal issues associated with the draft Code. In addition, the Privacy Commissioner attended a meeting of the Legislative Council Panel on Home Affairs on 12 April 2002 during which the draft Code was discussed.





在諮詢期結束時，公署共收到71份意見書，分別來自個人、公私營機構的僱主、專業團體及代表團體。僱主大多反對就僱員監察活動實施具約束力的「實務守則」，有些更反對由公署頒布「實務守則」或「最佳行事方式指引」。相反來說，個人、公營機構及專業團體／組織則贊成推出實務守則草擬本，所持的立場是工作間監察活動的透明度有助改善僱員關係。關於公署應設法在僱主有權管理機構的資產及僱員的個人資料私隱權益之間求取平衡，一般來說，意見書明確指出不會對此意見表示異議。

公署正對各界就草擬中的條文及與守則草擬本有關的四項政策問題所作出的回應進行詳細分析，預計在二零零三年年底擬備諮詢報告。



《固定及流動電訊服務營辦商保障顧客資料的實務守則》

固定及流動電訊服務營辦商由於資訊科技迅速發展而收集大量顧客個人資料。該等個人資料包括顧客的電話號碼、住址及通話記錄。在某些情況下，該等資料可能屬於敏感性個人資料。在二零零二年六月十七日，公署、消費者委員會、廉政公署及電訊管理局聯合發表《固定及流動電訊服務營辦商保障顧客資料的實務守則》，為固定及流動電訊服務營辦商提供一般指引，反映了上述四個機構在攜手保障顧客資料及權益方面所盡的努力。

As at the end of the consultation period, 71 written submissions were received from individuals, employers spanning the private and public sectors, professional bodies and representative associations. Employers tended to be opposed to the introduction of a binding “code of practice” on employee monitoring practices. In a few instances they were opposed to either a “code of practice” or “best practice guidelines” being issued by the PCO. In contrast, support for the introduction of the draft Code tended to come from individuals, public sector organizations and professional bodies/institutes. The position taken was that transparency around workplace monitoring would be beneficial to employee relations. However, it is clear from submissions that, in general they did not contest the view that the PCO should endeavour to strike a balance between the rights of the employer to manage the assets of the organization and the personal data privacy rights of the employee.

Detailed analyses are being carried out to examine responses in relation to the draft provisions and each of the four policy issues associated with the draft Code. It is anticipated that a report on the consultation exercise will be ready before the end of 2003.

Code of Practice on the Protection of Customer Information for Fixed and Mobile Service Operators

Rapid developments in information technology have led to the bulk of customers' personal data being collected by fixed and mobile service operators. Such personal data, which include customers' telephone numbers, residential addresses and details of call history, may be sensitive in certain circumstances. On 17 June 2002, the PCO, the Consumer Council, the Independent Commission Against Corruption and the Office of the Telecommunications Authority issued a joint Code of Practice on the Protection of Customer Information for Fixed and Mobile Service Operators. The publication of the Code, which serves as a general guidance for fixed and mobile service operators, reflects the high level of collaboration between the four organizations in promoting the protection of customer information and interests.

守則屬自願性質，列述各項良好的行事方式供固定及流動電訊服務營辦商參考，以防他們的僱員在未經許可情況下披露顧客的資料。舉例來說，守則鼓勵營辦商就保障顧客的個人資料制訂政策。營辦商可藉制訂資料分類政策、行業守則和資料私隱政策，以及管制查閱政策來達致此目的。守則建議營辦商採取保障顧客資料的技術措施、在處理及儲存顧客資料的地點實施查閱保安措施，制訂運作指引，以及為職員提供保安培訓，以符合私隱條例的保安規定。守則亦概述了多項良好的行事方式，以確保顧客的個人資料在服務營辦商及第三者之間移轉時得到適當保障。



The Code is voluntary and sets out good practices for fixed and mobile service operators for preventing the unauthorized disclosure of customer information by their staff. For example, operators are encouraged to adopt a policy on the protection of personal data of customers. This can be achieved by having a data classification policy, an ethics and data privacy policy and an access control policy. The Code recommends that operators adopt technical measures to protect customer information, to implement physical access security to locations where customer information is processed and stored, and to develop operational guidelines and security training for staff to ensure security compliance.

The Code also outlines good practices to ensure that customers' personal data are protected when they are transferred between a service operator and third parties.